THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.25960 OF 1997

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DATED: 18-04-2006

BETWEEN

D. Chetan,

S/o. I. Devaraj,

R/o. Adoni Town,

Kurnool District.

…PETITIONER

AND

The Commissioner,

Adoni Municipality,

Adoni and others.

…RESPONDENTS

ORDER:

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Learned counsel for the petitioner submits that the first respondent has taken steps to widen the road in front of the petitioner's building, Saptagiri Lodge, bearing municipal H.No.22/278, Kurnool Road, Adoni Town and the width of the said road is 60', which is sufficient for passage of traffic. The first respondent has marked 4½" X 23.3" X 35" height for demolitions purpose. He further submits that if the property of the petitioner is required for the purpose of road widening it is always open for the respondents to acquire the said land following due process of law but without following due process of law the respondents can neither

demolish the structures nor dispossess the petitioner.

The first respondent filed a counter stating that the petitioner constructed the said Saptagiri Lodge partly encroaching into the road margin and part of it is actually projected to the R&B road bearing Sy.No.556 to an extent of 9'-3" + 6'-6" / 2 x 22'-3" with 3 floors with RCC roof. Thus, there is an encroachment into the R&B road. As per the orders of the District Collector dated 11.09.1997 to all the Municipal Commissioners in the District to evince interest in road widening by removing illegal encroachments on the R&B road,
the Town Surveyor identified the encroachments in Adoni Town and the R&B department has taken up removal of encroachments from 02.11.1997. However, it is stated that pursuant to the interim orders granted by this Court the respondents did not touch the property of the petitioner.

I am of the opinion that if the petitioner has encroached any road margin of R&B road it is for the respondents to issue notice and take appropriate action for demolition and if any portion of the property of the petitioner is required for road widening, it is also open for the respondents to acquire the land following due process of law but without following due process of law neither the said encroachments be demolished nor the petitioner be dispossessed.

Having regard to the facts and circumstances of the case,
the writ petition is disposed of directing the respondents to take appropriate action following due process of law.

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V. ESWARAIAH, J

April 18, 2006

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